

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Latham Post Office  
Latham, Missouri

Docket No. A2011-71

ORDER AFFIRMING DETERMINATION

(Issued January 3, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 13, 2011, Deanna Cook, on behalf of the Tipton Latham Bank, (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Latham, Missouri post office (Latham post office).<sup>2</sup> The Final Determination to close the Latham post office is affirmed.

## II. PROCEDURAL HISTORY

On September 15, 2011, the Commission established Docket No. A2011-71 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>3</sup>

On September 28, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup> The Postal Service also filed comments asking the Commission to affirm the Final Determination to close the Latham post office.<sup>5</sup>

On October 11, 2011, Petitioner filed a Participant Statement.<sup>6</sup> On October 13, 2011, the Commission received two letters from patrons. One was from Elva Sauder

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<sup>2</sup> Petition for Review received from Deanna Cook regarding the Latham, MO. Post Office 65050, September 13, 2011 (Petition).

<sup>3</sup> Order No. 855, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 15, 2011.

<sup>4</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, September 28, 2011. (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Latham, MO Post Office and Continue to Provide Service by Highway Contract Route Service (Final Determination). The Postal Service later supplemented the Administrative Record to include documentation omitted from the original submission. See United States Postal Service Notice of Supplemental Filing, October 21, 2011.

<sup>5</sup> United States Postal Service Comments Regarding Appeal, November 7, 2011 (Postal Service Comments).

<sup>6</sup> Participant Statement received from Deanna Cook, October 11, 2011 (Participant Statement).

(Roadside Country Store) and Enos Sauder (Sauder's Bike Shop) (Sauder Letter). The other was from Shelbie Schatzer (Schatzer Letter).

On December 1, 2011, the Public Representative filed comments.<sup>7</sup>

### III. BACKGROUND

The Latham post office provides retail postal services and Post Office Box Service to 22 customers. Final Determination at 2. It does not serve any delivery customers. *Id.* The Latham post office, an EAS-55 level facility, has retail access hours of 7:15 a.m. to noon and 12:30 p.m. to 3:30 p.m., Monday through Friday, and 9:30 a.m. to 1:00 p.m. on Saturday. *Id.* Lobby access hours are 8 a.m. to 3 p.m., Monday through Friday, and 9:30 a.m. to 1 p.m. on Saturday. *Id.*

The postmaster position became vacant when the Latham postmaster was promoted on December 8, 2008. *Id.* A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* Retail transactions average 21 transactions daily (22 minutes of retail workload). *Id.* Post office receipts for the last 3 years were \$45,549 in FY 2008; \$46,312 in FY 2009; and \$37,511 in FY 2010. *Id.* There is one permit or postage meter customer. *Id.* The Postal Service anticipates savings of \$33,035 annually by closing this post office. *Id.* at 6.

After the closure, retail and delivery services via highway contract route service will be provided by the California post office located approximately 12 miles away.<sup>8</sup> *Id.* at 2. The California post office is an EAS-55 level post office, with retail hours of 8 a.m. to 4:30 p.m., Monday through Friday, and 8 a.m. to 12:00 p.m. on Saturday. *Id.* Eighty-nine post office boxes are available. *Id.* Retail service will also be available at the Fortuna post office, which is 7 miles away. Postal Service Comments at 3. The Fortuna post office is an EAS-11 post office. *Id.* It has 21 available post office boxes.

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<sup>7</sup> Public Representative Comments Supporting Remand, December 1, 2011 (PR Comments).

<sup>8</sup> *Id.* at 2. MapQuest estimates the driving distance between the Latham and California post offices to be approximately 13.9 miles (24 minutes driving time) and between the Latham and Fortuna offices to be approximately 8.3 miles (17 minutes driving time).

*Id.* The Postal Service will continue to use the Latham name and ZIP Code. Final Determination at 3, Response to Concern No. 3.

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioner opposes the closure of the Latham post office and raises several issues related to the closing's effect on postal services. One is the timeliness of collection and delivery service, as bank business is conducted throughout the day and mailing needs occur after the route delivery time. Participant Statement at 1. Another is security of the mail, as the bank sends certified, registered, delivery confirmation, and signature confirmation mail. *Id.* Petitioner also asserts that Latham's community profile is different than other towns where post offices are not being closed, as those towns do not have a bank, private schools, and certain other businesses that Latham supports. She believes this should be taken into consideration. *Id.* at 1-2. Petitioner expresses concern about the impact on Latham's Mennonite community as they do not use computers or automobiles. *Id.* at 2.

*Others.* The Sauders oppose closure of the Latham post office because of its convenience for those who travel into Latham by horse and buggy or bicycle to conduct postal and other business. Sauder Letter at 1. They also express concern about the ability to mail a letter or package when there is uncertainty as to the correct amount of postage. *Id.* Ms. Schatzer contends the estimated cost savings are inaccurate because they are based on the salary and benefits of a postmaster rather than the OIC. Schatzer Letter at 1. She also expresses concern about the impact on the Mennonite community. *Id.* Finally, she believes that Latham's central location should be taken into consideration. *Id.*

*Postal Service.* The Postal Service maintains that the Commission should affirm its determination to close the Latham post office. Postal Service Comments at 2. It believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Latham community; and (3) the economic savings. *Id.* It asserts that it

has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Latham post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Latham post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining post office revenue;
- a variety of other delivery and retail options (including the convenience of Highway Contract Route (HCR) delivery and retail service);
- no projected population, residential, commercial or business growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 5.

The Postal Service contends it will continue to provide regular and effective postal services to the Latham community when the Final Determination is implemented. *Id.* The Postal Service asserts that it has followed all statutorily required procedures. *Id.* at 3-4. The Postal Service also addresses concerns raised by Petitioner regarding the effect on postal services, effect on the Latham community, economic savings, and effect on postal employees. *Id.* at 4-9.

*Public Representative.* The Public Representative asserts that the record does not include any response to the Post Office Review Coordinator's request for information on businesses and other entities and lacks any analysis or documentation of expected business growth. PR Comments at 2. He concludes that the Postal Service has acknowledged only six businesses or organizations, while he believes the number is closer to 31. *Id.* at 3.

The Public Representative notes that the Community Survey Sheet notes the existence of a small Mennonite population, but that the Final Determination takes no

notice of the Mennonites' unique way of life and their postal needs. *Id.* Instead, he says the Postal Service provides canned responses, and asserts that this makes it impossible to determine whether any consideration was given to specific concerns raised by customers. *Id.* The Public Representative also asserts that the Postal Service's cost savings calculations do not include the estimated extra cost for providing HCR service. He observes that while it is conceivable that an existing route already passes by the new delivery points in Latham (thus adding no miles to the route), it is not reasonable to assume there will be no new delivery points. *Id.* at 4. He concludes that this case should be remanded so the Postal Service can give proper consideration to the postal needs of the Mennonite community and to the effect on the community of closing the Latham post office. *Id.*

## V. COMMISSION ANALYSIS.

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be

given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 15, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Latham post office. Final Determination at 2. Thirty questionnaires were distributed and 19 were returned. *Id.* On March 30, 2011, the Postal Service held a community meeting at the Latham post office to address customer concerns. *Id.* Twenty-five customers attended. *Id.*

The Postal Service posted the proposal to close the Latham post office, along with an invitation for comments, at the Latham, Fortuna, and California post offices from April 21, 2011 through June 22, 2011. *Id.* The Final Determination was posted at the same three post offices from August 5, 2011 through September 6, 2011. *Id.* at 2.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Latham, Missouri is an unincorporated community in Moniteau County, Missouri. *Id.* The community is administered politically by Moniteau County, which also provides police protection. *Id.* Fire protection is provided by the Fortuna Volunteer Fire Department. *Id.* The community is comprised of farmers and a small Mennonite population. Administrative Record, Item No. 16. Residents may travel

to nearby communities for other supplies and services. See *generally id.* Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Latham community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Latham post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5-6.

Petitioner raises the issue of the effect of the closing on the bank and on the Latham community. Petition at 1. Specifically, she states that the bank's business is conducted throughout the day and needs occur daily after the route delivery time. Participant Statement at 1. The Postal Service asserts that most services are available through the carrier on the day requested and do not require meeting the carrier at the mailbox. Postal Service Comments at 9. The Postal Service concludes that "the service that will be provided to Latham customers...is rather expedient. The community should not experience significant delay in receiving their postal services, thus diminishing any impact claimed by Petitioner upon the 'financial needs' of the community." *Id.* at 10. The Postal Service explains that the community identity will be preserved by continuing the use of the Latham name and ZIP Code. *Id.* at 9.

The Postal Service's response to concerns about the needs of the Mennonite community is that these are the same types of concerns shared by some elderly or disabled members of the community. *Id.* at 7. The Postal Service asserts that HCR service can provide delivery and retail services to roadside mailboxes or cluster box units, and thereby foreclose the need to make a trip to the post office to send or receive packages or buy postage. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).



*Effect on employees.* The Postal Service states that the Latham postmaster was promoted on December 6, 2008 and that an OIC has operated the Latham post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.* at 6.

The Postal Service has considered the possible effects of the closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Latham post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Latham customers, including the Mennonite community. *Id.* at 9-10. The Postal Service asserts that customers of the closed Latham post office may obtain retail services at the Fortuna post office and the California post office. *Id.* at 2; Postal Service Comments at 2. Delivery service will be provided by HCR service through the California post office and Latham's 22 post office box customers may obtain box service at the California post office, which has 89 boxes available. Final Determination at 2.

For customers choosing not to travel to the California or Fortuna post offices, the Postal Service explains that retail services will be available from the HCR carrier. *Id.* at 7. The Postal Service adds that it is not necessary to meet the carrier for service because most transactions do not require meeting the carrier at the mailbox. *Id.*

The Postal Service has considered and responded to the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii). Nevertheless, the Postal Service should, in future proceedings, ensure that the Administrative Record addresses customers' concerns with more specificity and identifies community businesses and entities with more accuracy.

*Economic savings.* The Postal Service estimates total annual savings of \$33,035. *Id.* at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$3,600), minus the cost of replacement service (\$1,305). *Id.*

Ms. Schatzer asserts that the estimated savings are inaccurate. Schatzer Letter at 1. Ms. Schatzer points out that the Latham post office has been managed by an OIC since December 2008, and does not get paid benefits or days off. Thus, amounts saved are based on the salary and benefits of a postmaster rather than the OIC who receives a lower salary and no benefits. *Id.* The Postal Service's response is that discontinuing the Latham post office would eliminate a permanent career position, thereby allowing the Postal Service to avoid the cost of filling that position in the future "in accordance with the complex set of agreements and regulations that govern employee and labor relations." Postal Service Comments at 13.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Latham postmaster was promoted on December 8, 2008. Final Determination at 7. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See Postal Service Comments at 13 ("the point is that one career slot is being eliminated with the discontinuance of the Latham post office. If that slot were filled in accordance with its current rating by a career employee, the salary would be as shown for a postmaster."). Furthermore, notwithstanding that the Latham post office has been staffed by an OIC for approximately 3 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Public Representative concludes that the Postal Service will not realize the full amount of the estimated cost savings because the Postal Service did not include the cost of replacement service. *Id.* at 4. However, a worksheet in the Administrative Record identifies \$1,304.54 as the cost of replacement service. Administrative Record, Item No. 17.

The Postal Service has considered the economic impact of its decision as required by 39 U.S.C. § 404(d)(2)(A)(iv).

## VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Latham post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Latham, Missouri post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent in this case.

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The Administrative Record did not show that the Postal Service took into consideration the impact of the removal of this post office on the Mennonite households in the community who, in many cases, do not own automobiles and for whom distances may thus present increased difficulty. The fact that most Mennonites do not own or use computers (described as an alternate access method) exacerbates the service adequacy concerns.

In addition, Latham's businesses include a bank, which requires time-sensitive and accountable postal transactions throughout the day including after the route delivery time. The Administrative Record does not show that the Postal Service meaningfully assessed the special needs of this customer.

Moreover, the Postal Service recently announced a moratorium on post office closings.

It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Latham, Missouri and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since December 2008, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Latham post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley